

REMARKS

Claims 22 – 32 are rejected under 35 U.S. C. 103 (a) as being unpatentable over Niwa (5,613,779) in view of Leung et al. (6,596, 298; hereinafter Lung '298) or Robertson (6,516,950) and Baggett (4,811,845). Claims 21, 33 and 34 are rejected under 35 U.S. C. 103(a) as being unpatentable over the references as applied to claim 22 above, and further in view of International Publication Number WO 03/094823 to Walding. Applicants traverse all of these rejections.

Applicants submit that the Examiner's comments that the present application is 'so old and conventional' are unsubstantiated. The Examiner must provide some evidentiary basis for the existence and meaning for the obviousness rejection. Deficiencies of references cannot be saved by appeals to 'common sense' and 'basic knowledge' without any evidentiary support. *In re Zurko*, 258 F.3d 1379, 59 USPQ2d 1693 (Fed Cir 2001).

Applicants submit that the combined references do not teach or suggest each and every element. For instance, the movable cover as claimed in the present application is not taught or suggested by any single reference or the combination of the references.

Applicants submit that there is no suggestion to combine the prior art references. Obviousness cannot be established by combining the teaching of the prior art to produce the claimed invention, absent some teaching, suggestion or incentive supporting the combination. *In re Geiger*, 815 F.2d 686, 688, 2 USPQ2d 1276, 1278 (Fed. Cir 1987). Applicants request that the Examiner note where the suggestion to combine the references is found.

Applicants submit that Walding is improperly cited as prior art and removal of all rejections based on Walding is warranted. The priority date for the present application antedates the 102(e) date for Walding.

Applicants respectfully request closure on the rejections contained in the previous Office Action dated April 22, 2005. The Examiner states that the previous rejections are moot; however, Applicants do not understand how they can be moot. There were no amendments to the claims during the previous response for the rejections to be considered 'moot'. Applicants submit that the previous rejections should be acknowledged as overcome or still pending. Applicants believe that their previous response submitted in July 2005 overcame these rejections.

Claims 21 – 34 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 – 20 of U.S. Patent No. 6,708,826.

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Applicants traverse these rejections. Applicants would consider filing a terminal disclaimer upon an indication of a notice of allowability.

In view of the present Amendment and Response, Applicants respectfully request favorable reconsideration.

Should the Examiner have any questions or comments concerning the above, the Examiner is respectfully invited to contact the undersigned attorney at the number listed below.

Date

Respectfully submitted,

11/28/05

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